ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Application by BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provision of In-Region, InterLATA Services in South Carolina	CC Docket No. 97-208

COMMENTS OF AMERITECH ON APPLICATION BY BELLSOUTH TO PROVIDE IN-REGION, INTERLATA SERVICES IN SOUTH CAROLINA

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INTRODUCTION AND SUMMARY

Ameritech supports the application of BellSouth for permission to provide in-region, interLATA services in South Carolina. If BellSouth's factual allegations are correct, then it has satisfied the statutory prerequisites under Section 271 for interLATA entry. BellSouth's application should be approved so that BellSouth may contribute to a much-needed increase in competition for long distance services in South Carolina.

Ameritech will limit the scope of its comments to three basic points. First, while BellSouth has shown that it has satisfied the Commission's test for an application under Section 271(c)(1)(B) ("Track B") of the Telecommunications Act of 1996 (the "1996 Act"), Ameritech submits that the Commission's test imposes improper barriers to Track B entry. Second, under the Eighth Circuit's rulings, the Commission has no authority to require applicants for Section 271 authorization to provide, at cost-based rates, existing combinations of network elements in the applicant's network. Third, Ameritech joins BellSouth's analysis of the error in the

Commission's previously-expressed view that, in its "marketing script," a Bell operating company ("BOC") may mention its long distance affiliate only as part of a random list of carriers — a ruling that infringes on the BOC's statutory joint marketing right under Section 271(g) of the 1996 Act.[1/]

In selecting these three topics for further discussion, Ameritech does not mean to imply that it disagrees with other aspects of BellSouth's application. To the contrary, Ameritech strongly endorses Bell South's position that the long distance business in the United States continues to be a highly concentrated oligopoly and that the entry of the Bell companies will inject a highly desirable dose of additional competition into that business. See BellSouth Brief, pp. 72-84.

BellSouth also endorses BellSouth's showing that the approval of its application will have a salutary effect on competition for local exchange services in South Carolina. See id., pp. 102-105. For the present, some of the most powerful potential competitors for local exchange services, including AT&T, MCI, and Sprint, have chosen to remain completely or largely on the sidelines in many states. They apparently believe that their interest lies in protecting their own turf by keeping the BOCs out of long distance and preventing them from providing full-service packages and, at the same time, declining to expend the effort and resources necessary to enter the local exchange business in those states. Permitting the BOCs to enter the long distance business will assuredly break this logjam immediately and radically, not only in South Carolina, but also in any other state in which BOC entry is permitted. If only to remain

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[1/] See Brief in Support of Application by BellSouth for Provision of In-Region, InterLATA Services in South Carolina, pp. 62-65 (Sept. 30, 1997) ("BellSouth Brief").

competitive with the BOCs in providing "one-stop shopping," the large interexchange carriers necessarily would have to enter the local exchange business on a substantial scale.

In short, the surest and most effective way to jump-start competition for both local exchange and long distance services is not, as some have erroneously urged the Commission, to micro-manage the operations of the BOCs, but rather to unleash the BOCs to compete for long distance customers, which, in turn, will compel the interexchange carriers to compete for local exchange customers. In this way, the explicit goal of Congress in passing the 1996 Act — to provide enhanced services and more competitive prices to all consumers by opening both the interexchange and local exchange businesses to enhanced competition — can be accomplished successfully.[2/] Granting the BellSouth application would constitute a significant, positive step toward this Congressionally-mandated goal.

ARGUMENT

I. BELLSOUTH HAS PROPERLY FILED AN APPLICATION UNDER TRACK B OF THE 1996 ACT TO PROVIDE IN-REGION, INTERLATA SERVICES IN SOUTH CAROLINA.

BellSouth filed its application for South Carolina under Track B on the ground that "no potential competitors are taking reasonable steps toward providing facilities-based service to business and residential customers." BellSouth Brief, pp. 4-5. In so doing, BellSouth has applied the test adopted by the Commission in its review of SBC's application to provide interLATA services in Oklahoma. Specifically, the Commission concluded that Track B is precluded if a BOC receives a request for interconnection from a potential competitor that, if

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[2/] See H.R. Conf. Rep. No. 104-458, 104th Cong., 2d Sess. 113 (1996) (one of the purposes of the 1996 Act is "to provide for a procompetitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition") (emphasis in original).

implemented, will satisfy the facilities-based standard of Section 271(c)(1)(A).[3/] Moreover, the competitor must move toward the "goal" of becoming an actual facilities-based competitor "in a timely fashion."[4/] The Commission acknowledged that its test could require "a difficult predictive judgment" as to whether a potential competitor's request will lead to Section 271(c)(1)(A) facilities-based service,[5/] and, therefore, bar a Track B application.

Ameritech believes that BellSouth has shown compliance with the Commission's test and, consequently, it may proceed under Track B. Indeed, in light of the apparent disinterest on the part of potential competitors in providing local exchange services in South Carolina, that state is particularly appropriate for a Track B application.

Ameritech is concerned, however, that the Commission's "potential (c)(1)(A) provider" test for a Track B entry is unduly vague, and therefore likely to result in arbitrary and capricious Commission action on Track B applications. Because of its vagueness, moreover, the test could be used improperly to undermine Track B applications whenever any potential local exchange competitor is somewhere on the horizon, however remote its actual entry or competitive impact may be. The ultimate effect would be to eliminate Track B as a viable procedure for interLATA entry by the BOCs, contrary to the expressed intent of Congress.

To ameliorate the defects in the Commission's approach, Ameritech suggests that the proper focus should be on the existence and nature of any implementation schedules in the

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3/ See Memorandum Opinion and Order, Application of SBC Communications Inc., Pursuant to Section 271 of the Communications Act of 1934, As Amended, to Provide In-Region, InterLATA Services in Oklahoma, CC Docket No. 97-121, FCC No. 97-228, ¶ 54 (rel. June 26, 1997) ("SBC Order").

4/ Id., ¶ 55.

5/ Id., ¶ 57.

interconnection agreements between the BOC and its potential competitors. If there are no implementation schedules in the agreements, or if any implementation schedules do not require the competitors to become facilities-based providers "in a timely fashion," then Track B should remain open to the BOC.

It is familiar ground that, under the 1996 Act, a BOC may properly file an application to provide in-region interLATA services under Track A if it has entered into one or more approved interconnection agreements with unaffiliated competing carriers that provide local telephone exchange service either exclusively or predominantly over their own facilities to residential and business subscribers. Section 271(c)(1)(A). Alternatively, a BOC may pursue Track B if, after December 8, 1997, (i) "no such provider has requested the access and interconnection described in [subsection (c)(1)(A)] before the date which is 3 months before the date the company makes its application under subsection (d)(1)," and (ii) the applicable state commission has approved or permitted to take effect "a statement of the terms and conditions that the company generally offers to provide such access and interconnection." Section 271(c)(1)(B). In addition, even where a BOC actually has received one or more such requests, the 1996 Act provides that the BOC shall be deemed not to have received any request where the state commission certifies that the only requesters have either "(i) failed to negotiate in good faith as required by Section 252, or (ii) violated the terms of an agreement approved under section 252 by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement." Id. (Emphasis added.)

The final sentence of Section 271(c)(1)(B) sets forth two specific circumstances under which a request for access and interconnection from a competing carrier will not foreclose Track B relief. Both exceptions are intended to open Track B when a BOC, through no fault of its

own, is unable to pursue Track A. The first exception applies when the parties have not obtained an approved agreement because of bad faith negotiating by the requesting carrier. The second exception applies when the parties do have an interconnection agreement, but the requesting carrier fails to adhere to the schedule for providing service pursuant to that agreement.

The full (and necessary) implication of the second exception is critical to a proper understanding of the Track B procedure. If a requesting carrier's failure to abide by a contractual commitment to provide facilities-based business and residential service by a date certain prevents its prior request for access and interconnection from foreclosing Track B to the BOC, it follows, a fortiori, that execution of an interconnection agreement that contains no commitment at all to provide service in accordance with Section 271(c)(1)(A) cannot foreclose Track B to the BOC.

Indeed, with no schedule in the agreement committing the potential competitor to commence facilities-based residential and business service by a date certain, there is even less reason to foreclose Track B than where the requesting carrier fails to comply with a schedule for the provision of such service that actually appears in the agreement. After all, Congress clearly inscribed the implementation schedule exception in Section 271(c)(1)(B)(ii) in order to avoid forestalling BOC entry into long distance because of a potential carrier's delay in providing service pursuant to an interconnection agreement. An interconnection agreement with no implementation schedule permits a requesting carrier not only to delay implementation, but also to decline to implement access and interconnection at all, thereby truly leaving the BOC, absent a reasonable construction of Track B, in "a 'no-man's land' where, in effect, neither Track A nor Track B is available to it." SBC Order, ¶ 54. It simply makes no sense (and is

inconsistent with the 1996 Act) to relegate a BOC to such a blind alley based on an interconnection agreement that leaves provision of service pursuant to that agreement completely in the hands of a potential competitor that itself would benefit from such an absurd regulatory result.

Thus, even under the Commission's "potential (c)(1)(A) provider" theory, the BOC should have a right to pursue Track B unless (i) one or more competing carriers is providing facilities-based service to residential and business subscribers or (ii) there is an interconnection agreement that commits the potential competitor to a reasonable schedule for the commencement of such service and that carrier complies with the schedule. Once there is an approved agreement, the Commission need not — indeed, may not — rely on "difficult predictive judgments" based on the purported desires and forecasts of a BOC's "potential" competitors to determine whether the BOC has received a qualifying request. Nor may the Commission place the onerous, nonstatutory burden on the BOC, as it did in the SBC Order (¶¶ 63-64), to prove the negative proposition that its agreements with competitors "will not result" in Section 271(c)(1)(A) service. This all but impossible burden to prove a negative has no basis in the 1996 Act, and it can serve only to close off the Track B route to long distance.

Moreover, this focus on the existence of (and compliance with) a potential competitor's contractual commitment to provide Section 271(c)(1)(A) service by a date certain not only serves to link the Commission's "potential (c)(1)(A) provider" theory to the Act, but best serves Congress' goal of introducing competition in the provision of telecommunications services by encouraging the fulfillment of contractual promises and discouraging strategic behavior. It imposes continuing obligations on the BOC, because any BOC desiring to offer in-region interLATA services remains obligated, pursuant to the competitive checklist in Section 271(c)(2)(B), to provide nondiscriminatory and competitive access and interconnection. Above

all, it relieves carriers, the Commission, and the courts from reliance on the Commission's unbounded and arbitrary "predictive judgment," as opposed to a practicable and predictable means of evaluating the availability of Track B.

II. THE COMMISSION HAS NO AUTHORITY TO REQUIRE APPLICANTS FOR SECTION 271 AUTHORIZATION TO PROVIDE, AT COST-BASED RATES, EXISTING COMBINATIONS OF NETWORK ELEMENTS IN THE APPLICANT'S NETWORK.

In its order rejecting Ameritech Michigan's Section 271 application, the Commission stated that future applicants must demonstrate that they are providing new entrants with access to network elements that are already combined in the applicant's network.[6/] The Commission emphasized that "when a competing carrier seeks to purchase a combination of network elements, an [applicant] may not separate network elements that [it] currently combines."[7/] BellSouth disagrees with the Commission's positions, articulated in the Ameritech Michigan Order, regarding existing combinations of unbundled network elements.[8/] By contrast, AT&T and LCI have moved to dismiss BellSouth's application due to BellSouth's failure to comply with the Commission's requirements regarding existing network element combinations.[9/] BellSouth's position, which Ameritech supports, now has been conclusively approved by the U.S. Court of Appeals for the Eighth Circuit.

6/ Memorandum Opinion and Order, Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, CC Docket No. 97-137, FCC 97-298, ¶¶ 332-37 (rel. Aug. 19, 1997) ("Ameritech Michigan Order").

7/ Id., ¶ 336. See id., ¶ 333.

8/ BellSouth Brief, pp. 20, 39 & n.15.

9/ Motion of AT&T Corp. and LCI International Telecom Corp. to Dismiss BellSouth's 271 Application for South Carolina, CC Docket No. 97-208, pp. 8-14 (Oct. 1, 1997).

On October 14, 1997, the Eighth Circuit amended its opinion in Iowa Utilities Board v. FCC, 120 F.3d 753 (8th Cir. 1997), in response to petitions for rehearing filed by Ameritech Corporation and others.[10/] Pursuant to the Court's amended opinion, the Commission does not have the authority to order the Bell operating companies — or any incumbent LEC — to provide existing network elements combinations in the incumbent's network. Accordingly, the Commission no longer may impose this requirement as a condition of granting a Section 271 application.

As the Commission is aware, the Eighth Circuit's original opinion in Iowa Utilities Board did not vacate 47 C.F.R. § 51.315(b), which provides that "[e]xcept upon request, an incumbent LEC shall not separate requested network elements that the incumbent LEC currently combines." In their petitions for rehearing to the Eighth Circuit, Ameritech and other incumbent LECs argued that the Commission and certain new entrants had improperly used Section 51.315(b) to support its requirement that incumbent LECs provide, at cost-based rates, network element combinations that incumbent LECs currently combined in their own networks.[11/] Among other things, Ameritech argued that such position was inconsistent with several important distinctions, articulated in Iowa Utilities Board, between network elements obtained on an unbundled basis under Section 251(c)(3) of the Act and resale services obtained under Section 251(c)(4).

In its amended opinion in Iowa Utilities Board, the Eighth Circuit vacated § 51.315(b) and, in so doing, reinforced the distinction between Sections 251(c)(3) and (c)(4) of the Act. The Court explained that "Section 251(c)(3) requires an incumbent LEC to provide access to the

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[10/] Iowa Utilities Board v. FCC, Nos. 96-3321, et al., Order on Petition for Rehearing (Oct. 14, 1997) ("Eighth Circuit Rehearing Order").

[11/] See Petition for Rehearing of Ameritech Corporation, Nos. 96-3321 and consolidated cases (Aug. 29, 1997).

elements of its network only on an unbundled (as opposed to a combined) basis," and "does not permit a new entrant to purchase the incumbent LEC's assembled platform(s) of combined network elements (or any lesser existing combination of two or more elements) in order to offer competitive telecommunications services." Eighth Circuit Rehearing Order, p. 2 (emphasis added). The Court added that "[t]o permit such an acquisition of already combined elements at cost based rates for unbundled access would obliterate the careful distinction Congress has drawn in subsections 251(c)(3) and (4) between access to unbundled network elements . . . and the purchase of wholesale rates of an incumbent's telecommunications retail services for resale." Id. (Emphasis added.) In light of these principles, the Eighth Circuit vacated § 51.315(b), which "prohibit[ed] an incumbent LEC from separating network elements that it may currently combine," finding the regulation to be "contrary to § 251(c)(3) because the rule would permit the new entrant access to the incumbent LEC's network elements on a bundled rather than an unbundled basis." Id. (Emphasis added.)

The Eighth Circuit's amended opinion in Iowa Utilities Board makes clear that an incumbent LEC may not be required to provide access to existing network element combinations in its network at cost-based rates. Given this, AT&T's so-called "assume-as-is" "UNE platform" plainly falls within the prohibitions set forth in the Eighth Circuit's amended opinion in Iowa Utilities Board. The Court held in unmistakable terms that incumbent LECs may not be required to provide existing, bundled combinations of network elements to new entrants. Yet the existing combinations or "platforms" that the Commission required in the Ameritech Michigan Order "would permit the new entrant access to the incumbent LEC's network elements on a bundled rather than an unbundled basis," and hence are contrary to the Court's amended opinion in Iowa Utilities Board. Id.

In sum, the Eighth Circuit's amended opinion makes clear that the 1996 Act prohibits the FCC (or any other entity) from requiring incumbent LECs to provide, under Section 251(c)(3), existing network element combinations in its network at the cost-based rates reserved for unbundled network elements.[12/]

III. THE COMMISSION SHOULD RECONSIDER ITS VIEWS REGARDING THE USE OF "MARKETING SCRIPTS" BY BOCS AUTHORIZED TO PROVIDE INTERLATA SERVICES.

In discussing its compliance with Section 272(g) regarding joint marketing of interLATA and local exchange services, BellSouth notes that the Commission's discussion of "marketing scripts" in its Ameritech Michigan Order (¶¶ 375-76) "may erroneously be read to prevent a Bell company from mentioning its long distance affiliate before reading a list of all available carriers in random order." BellSouth Brief, p. 63. Ameritech agrees that the Commission's views require clarification or reconsideration.

In the Ameritech Michigan proceeding, the Commission considered the following excerpt from a marketing script designed to be used in connection with new local exchange customers and customers switching the location of their existing service:

> "You have a choice of companies, including Ameritech Long Distance, for long distance service. Would you like me to read from a list of other available long distance companies or do you know which company you would like?"

12/ The Commission's regulations requiring that incumbent LECs provide what the Commission calls "shared transport" are currently on appeal before the Eighth Circuit. See Third Order on Reconsideration, In re Local Competition Provisions of the Telecommunications Act of 1996, CC Docket Nos. 96-98 and 95-185 (Aug. 18, 1997), on appeal in US West, Inc. v. FCC, Docket Nos. 97-3576 (and consolidated cases). It is clear, however, that the Eighth Circuit's rehearing order in Iowa Utilities Board also prohibits the Commission from requiring incumbent LECs to provide the network element combinations inherent in "shared transport."

Ameritech Michigan Order, ¶ 375. The Commission opined that this script, if used by Ameritech, would violate the "equal access" requirements of Section 251(g) of the 1996 Act because it would allow Ameritech "to gain an unfair advantage over other interexchange carriers." Id., ¶ 376. Ameritech believes that the Commission's views are incorrect.

In the first place, the Commission's position on the marketing script articulated in the Ameritech Michigan Order is flatly inconsistent with, and contrary to, the 1996 Act. Indeed, the Commission effectively wrote Section 272(g) out of the 1996 Act. That provision confers upon the BOCs in unequivocal terms broad authority to market and sell the services of their long distance affiliates. There is no exception for inbound calls or calls from new customers; the only restriction is that marketing may not be initiated until after the BOC has received long distance authority.

The Commission has previously recognized this broad statutory authority. For example, it noted in the Non-Accounting Safeguards Order that "[a]fter a BOC receives authorization under section 271, the restriction in section 272(g)(2) is no longer applicable, and the BOCs will be permitted to engage in the same type of marketing activities as other service providers."[13/]

The Commission's views in the Ameritech Michigan Order, however, are flatly inconsistent with the Non-Accounting Safeguards Order. In that Order, the Commission recognized that BOCs have a statutory right under Section 272(g) of the 1996 Act to market and sell the long distance services of their affiliates. At the same time, however, the Commission concluded that the BOCs should continue to be subject to equal access obligations with respect

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13/ First Report and Order, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, CC Docket No. 96-149, FCC 96-489, ¶ 291 (rel. Dec. 24, 1996) ("Non-Accounting Safeguards Order") (emphasis added).

to new local exchange customers. The Non-Accounting Safeguards Order seeks to harmonize the BOC's statutory right to market and sell their affiliates' services with equal access principles.

To this end, the Commission expressly permitted the BOCs to market the long distance services of their Section 272 interLATA affiliates, but required them to "inform new local exchange customers of their right to select the interLATA carrier of their choice and take the customer's order for the interLATA carrier the customer selects."[14/] The Commission summarized its holding as follows:

> "We further conclude that the continuing obligation to advise new customers of other interLATA options is not incompatible with the BOCs' right to market and sell the services of their section 272 affiliates under section 272(g). Thus, a BOC may market its affiliate's interLATA services to inbound callers, provided that the BOC also informs such customers of their right to select the interLATA carrier of their choice."[15/]

The Commission also required BOCs to "provide any customer who orders new local exchange service with the names and, if requested, the telephone numbers of all the carriers offering interexchange services in its service area."[16/] The Commission stated that such list must be provided in random order.[17/]

The marketing script submitted by Ameritech Michigan in support of its Section 271 application was consistent in all respects with this decision. The script explicitly informed customers that they had a choice of companies for long distance service. Indeed, it did so in the very first sentence, thereby dispelling any possibility that customers might be induced to choose Ameritech Long Distance before they have been told that they retain the right to choose

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14/ Non-Accounting Safeguards Order, ¶ 292.

15/ Id. (Emphasis added.)

16/ Id.

17/ Id.

another carrier. The script also provided customers with a list, in random order, of all available long distance companies by specifically inviting customers to hear such a list.

The Ameritech Michigan marketing script was also entirely consistent with a NYNEX proposal, which the Commission twice cites with approval in Paragraph 292 of the Non-Accounting Safeguards Order. Under that proposal,

> "in the process of a new customer completing his or her order for local service, the NYNEX customer service representative would inform the customer that a number of companies provide long-distance service, including NYNEX Long Distance Company, and offer to send material regarding NYNEX Long Distance. . . . If the customer indicates that he/she is not sure as to which carrier to choose, the representative would offer to read a randomly-generated list of available carriers including NYNEX Long Distance."[18/]

The Commission nevertheless apparently concluded that the Ameritech Michigan script was deficient because it permitted mention of Ameritech Long Distance separately and apart from this random list. That conclusion misconstrues the Non-Accounting Safeguards Order. In requiring BOCs to provide customers with a random list of available interexchange carriers, the Non-Accounting Safeguards Order does not — and could not — prohibit a BOC from separately mentioning its affiliate's long distance service. On the contrary, that Order expressly acknowledges the statutory right of BOCs to market the services of their affiliates. Obviously, a BOC cannot successfully market its affiliate's services if it is not even permitted to mention those services, except as part of a random list which may include well over one hundred carriers.

The requirement that a BOC list every available interexchange carrier even when the customer has made up his or her mind — after 13 years of equal access and exposure to the marketing efforts of numerous carriers — would impose an excessively burdensome obligation

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18/ NYNEX October 23, 1996, ex parte, CC Docket No. 96-149, at 2.

that would simply slow the selection process and annoy the BOC's customers. For example, in the states served by Ameritech, there are typically well in excess of 100 available carriers. Merely to recite a random list of carriers would take a service representative at least eight minutes, and many customers obviously will not tolerate the inconvenience of having to listen to such a list. They either will interrupt with a selection or simply will terminate the call to put a stop to the seemingly endless list of carriers. This recitation would undoubtedly trigger a flood of complaints from frustrated customers, and effectively prevent the BOC from jointly marketing its local and long distance services on inbound calls in violation of the BOC's statutory right under Section 272(g) of the 1996 Act.

Therefore, both the statutory mandate and Commission precedent require the Commission to make clear that a BOC may mention its own long distance affiliate and ask customers if they have selected a long distance carrier before the BOC is required to list all available carriers in random order.[19/]

19/ The restriction on joint marketing suggested by the Ameritech Michigan Order raises First Amendment concerns as well. It is well recognized that the First Amendment protects "the dissemination of truthful and nonmisleading commercial messages about lawful products and services." Liquormart, Inc. v. Rhode Island, 116 S.Ct. 1495, 1504 (1996) (opinion of Stevens, J.). Even a communication that does "no more than propose a commercial transaction" is within the scope of the First Amendment. Virginia State Bd. of Pharmacy v. Virginia Citizens Consumer Council, 425 U.S. 748, 762 (1976). Moreover, "[t]he First Amendment directs us to be especially skeptical of regulations that seek to keep people in the dark for what the government perceives to be their own good, [including] state attempts to deprive consumers of information about their chosen products." 44 Liquormart, supra at 1508 (opinion of Stevens, J.). To justify such a restriction on speech, the State "bears the burden of showing not merely that its regulation will advance its interest, but also that it will do so 'to a material degree.'" Id. at 1509, citing Edenfield v. Fane, 507 U.S. 761, 771 (1993).

The Commission has not offered a shred of evidence to suggest that the joint marketing restriction it espouses in the Ameritech Michigan Order is needed to achieve any valid objective, much less an important government objective. The only explanation in the

(continued...)

CONCLUSION

Because BellSouth has properly filed a Track B application to provide in-region, interLATA services in South Carolina, and because authorization for BellSouth to provide such services clearly will increase competition for both local and interLATA services in that state, as mandated by Congress in the 1996 Act, BellSouth's application should be granted.

Respectfully submitted,

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[19](...continued)

Order was the unadorned conclusion that the marketing script would allow Ameritech Long Distance "to gain an unfair advantage over other interexchange carriers." Ameritech Michigan Order, ¶ 376. The Commission did not attempt to demonstrate the extent of this advantage, its effect on the marketplace, or its effect on consumers. The Commission's conclusion was nothing more than an exercise in speculation, and speculation is not a permissible ground for restricting truthful statements about lawful activities.

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of October, 1997, I caused copies of the Comments of Ameritech on the Application By BellSouth To Provide In-region, InterLATA Services in South Carolina to be served upon the parties listed below by first-class mail, postage prepaid.

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